



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Brad Deutsch, Esq.  
Garvey Schubert Barer  
1000 Potomac Street NW, Suite 200  
Washington, DC 20007

**APR 25 2017**

RE: MUR 7040  
Bernie 2016 and Susan Jackson in her  
official capacity as treasurer

Dear Mr. Deutsch:

On April 13, 2016, the Federal Election Commission notified your clients, Bernie 2016 and Susan Jackson in her official capacity as treasurer ("Committee"), of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended. On April 20, 2017, based upon information in the complaint, and information provided by the Committee, the Commission voted to dismiss the allegation that the Committee violated 52 U.S.C. § 30116(f). Accordingly, the Commission closed the file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which more fully explains the Commission's findings, is enclosed.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Allen".

Mark Allen  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Bernie 2016 and Susan Jackson  
in her official capacity as treasurer

MUR 7040

**I. INTRODUCTION**

The Complainant alleges that Bernie 2016 and Susan Jackson in her official capacity as treasurer ("Committee"), the principal campaign committee of Senator Bernard "Bernie" Sanders, a candidate for the Democratic nomination for President in 2016, accepted excessive contributions.<sup>1</sup> The Complaint is based upon information from the Commission's Requests for Additional Information ("RFAs") to the Committee regarding excessive contributions disclosed on the Committee's 2015 October Quarterly Report and 2015 Year-End Report. The Committee responds that it timely refunded or reattributed all excessive contributions disclosed on those reports. Although the Committee did not timely refund or reattribute all the excessive contributions at issue, the untimely portion is small and almost all of it was cured within 120 days. Under these circumstances, the Commission dismisses the allegation that the Committee violated 52 U.S.C. § 30116(f).

**II. FACTUAL AND LEGAL ANALYSIS**

The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits a candidate or political committee from knowingly accepting contributions in violation of the contribution limits set forth in the Act.<sup>2</sup> For the 2016 election cycle, no person was permitted to

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<sup>1</sup> On June 17, 2016, the Commission received a letter from the Complainant stating that it was withdrawing its complaint. On the same day, the Commission sent a letter to the Complainant stating that its request to withdraw the Complaint will not prevent the Commission from taking appropriate action on the Complaint under the Act. *See* 52 U.S.C. § 30109.

<sup>2</sup> 52 U.S.C. § 30116(f).

1 make contributions to a candidate for federal office or his authorized political committee which  
2 in the aggregate exceeded \$2,700 for each election.<sup>3</sup>

3 Contributions which on their face exceed this limit and contributions which do not appear  
4 to be excessive on their face, but which exceed the limit when aggregated with contributions  
5 from the same contributor, may either be deposited into a campaign depository under  
6 11 C.F.R. §103.3(a) or returned to the contributor.<sup>4</sup> If any such contribution is deposited, the  
7 treasurer may request redesignation or reattribution of the contribution by the contributor in  
8 accordance with 11 C.F.R. § 110.1(b) or (k) as appropriate.<sup>5</sup> If a redesignation or reattribution is  
9 not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution,  
10 refund the contribution to the contributor.<sup>6</sup>

11 The Committee disclosed \$97,985 in excessive contributions on its 2015 October  
12 Quarterly Report and \$49,325 in excessive contributions on its 2015 Year-End Report, as  
13 identified in the Commission's RFAs addressed to the Committee.<sup>7</sup> While the Committee  
14 asserts that it timely refunded or reattributed all of the excessive contributions reported on those  
15 two reports,<sup>8</sup> the Committee's disclosure reports indicate that excessive contributions from ten  
16 contributors totaling \$5,487 on the 2015 October Quarterly Report and excessive contributions  
17 totaling \$1,975 from six contributors on the 2015 Year-End Report were not refunded or

<sup>3</sup> See 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b).

<sup>4</sup> See 11 C.F.R. § 103.3(b)(3).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See RFAI on the Committee's 2015 October Quarterly Report (Nov. 3, 2015) and RFAI on the Committee's 2015 Year-End Report (Feb. 11, 2016). The RFAs include lists of the contributors who made excessive contributions by date and amount.

<sup>8</sup> Committee Resp. at 2-3. The Committee made no mention of any redesignated contributions.

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1 reattributed timely under 11 C.F.R. § 103.3(b)(3). Therefore, the Committee accepted excessive  
2 contributions totaling \$7,462.<sup>9</sup>

3 This amount, both in gross and as a percentage of the tens of millions of dollars in  
4 contributions the Committee received during the reporting periods at issue, is small.<sup>10</sup> Further,  
5 the great majority of the excessive contributions were refunded or reattributed within 120 days.<sup>11</sup>  
6 Under these particular circumstances, the Commission exercises its prosecutorial discretion and  
7 dismisses the allegation that the Committee violated 52 U.S.C. § 30116(f).<sup>12</sup>

<sup>9</sup> See 52 U.S.C. §§ 30116(a)(1)(A), 30116(f).

<sup>10</sup> The Committee reported receiving \$26.2 million in contributions on its 2015 October Quarterly Report and \$33.5 million in contributions on its 2015 Year-End Report. And of the total amount of \$147,310 in excessive contributions that the Committee disclosed on the two disclosure reports, the \$7,462 refunded or reattributed untimely represents only five percent of the excessive contributions received.

<sup>11</sup> Of the \$7,462 in untimely refunds or reattributions, \$5,597 was refunded or reattributed within 120 days of receipt.

<sup>12</sup> See *Heckler v. Chaney*, 470 U.S. 821 (1985).

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